IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

Crl.MC.No. 273 of 2007()

CC.946/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: 5TH ACCUSED

A.R.MOHAMED YACOOB, AGED 62 YEARS,
S/O.LATE ABDUL RAHMAN, NO.XIII-2,
MOULANA AZAD ROAD, COCHIN-2.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
MATTANCHERRY POLICE STATION, KOCHI.

BY PUBLIC PROSECUTOR SRI. SU NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.273 of 2007

Dated this the 5th day of February 2007

O R D E R

The petitioner is the fifth accused in a prosecution under Section 420 read with 34 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. The case has been pending from 2004. The petitioner has not appeared before the learned Magistrate and consequently he finds himself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner apprehends that his application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. He, therefore, prays that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate wound not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned Public Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006